



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**ELECTRONIC MAIL**  
**CONFIRMATION OF RECEIPT EMAIL REQUESTED**

Mr. Brent Fairchild  
Director of EHS  
TAV Holdings, Inc.  
56 Jarrell Road  
Greenville, Georgia 30222  
bfairchild@tavholdingsinc.com

and

Mr. William S. "Buddy" Cox  
Partner  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, Alabama 35203  
bc Cox@bradley.com

Re: Paragraph 85 Request for Information (RFI) regarding Off-Site Shipments  
TAV Holdings, Inc., Atlanta, Georgia

Dear Mr. Fairchild and Mr. Cox:

On January 18, 2022, the U.S. Environmental Protection Agency issued an Order to address the imminent and substantial endangerment presented by the TAV Holdings, Inc. (TAV) Atlanta, Georgia Facility (Facility) pursuant to Section 7003(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973(a) (hereinafter, "the Order"). Paragraph 85 of the Order states:

*85. In the event Respondents ship any materials off site prior to approval of the work plan(s) required by Paragraph 84, Respondents shall comply with all applicable legal requirements, including, but not limited to, hazardous waste determinations, RCRA's manifest requirements, and land disposal restrictions, and shall provide documentation to the EPA of such shipment(s) within three (3) business days prior to such shipment. Such documentation shall include a description of the material, any characterization/waste determination of the material, the amount, the transporter, and the destination facility. Within two (2) business days following such shipment, Respondents shall submit to the EPA any relevant shipping document (manifest, bill of lading, etc.) pertaining to such shipment(s).*

As of the date of this letter, the EPA has not received the work plan required by Paragraph 84. Beginning with its March 14, 2022 weekly progress report, TAV began providing information regarding outbound shipments of what TAV has classified as "products." This information includes the date of the

shipments, the product type, and the total weight. The provision of this information does not fully comply with Paragraph 85 of the Order.<sup>1</sup>

Pursuant to Paragraph 85 of the Order and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, the EPA has prepared this Request for Information (hereinafter, "Paragraph 85 RFI"). TAV is hereby directed to respond, fully and truthfully, within fourteen (14) calendar days of receipt of this letter, to the Paragraph 85 RFI enclosed herein as Enclosure C (subject to the Instructions in Enclosure A, and the Definitions in Enclosure B). Compliance with this Paragraph 85 RFI is mandatory, and information provided by TAV may be used by the EPA in future enforcement actions. Failure to respond fully and truthfully to each and every question or information request within fourteen (14) calendar days of receipt of this letter, or to adequately justify such failure to respond, may result in further enforcement action against TAV by the EPA pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

All information submitted to the EPA in response to this Paragraph 85 RFI must be certified as true, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of TAV. An affidavit making such representations is provided as Enclosure D. Your response to this Paragraph 85 RFI should be emailed to:

Araceli B. Chavez  
Chief  
chavez.araceli@epa.gov

Brooke York  
Environmental Engineer  
york.brooke@epa.gov

RCRA Enforcement Section  
Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division

The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. TAV may, if desired, assert a business confidentiality claim covering part or all of the information requested, in the manner described in 40 C.F.R. § 2.203(b), by attaching to such information, at the time it is submitted, a suitable notice employing language such as "trade secret" or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by the EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If TAV intends to claim the information as confidential, please contact the RCRA Document Control Officer, Brooke York, at york.brooke@epa.gov, prior to submittal, for confidential submittal procedures. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to TAV. The EPA will construe the failure to furnish a confidentiality claim with your response to this letter as a waiver of that claim. TAV should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. In addition, please be specific as to the particular information being claimed as confidential when submitting the claim.

This Paragraph 85 RFI is not subject to the approval requirement of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 *et seq.*

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<sup>1</sup> It appears that TAV may be interpreting Paragraph 85 to only apply to "wastes." However, the Paragraph covers shipments of "any materials," which would include wastes or "products."

Should you have any questions on this matter, please contact Brooke York, of my staff, by phone at (404) 562-8025 or by email at york.brooke@epa.gov.

Sincerely,

Kimberly L. Bingham  
Chief  
Chemical Safety and Land Enforcement Branch

Enclosure

cc: Mr. Jim McNamara; GAEPD (Jim.McNamara@dnr.ga.gov)  
Mr. Chuck Mueller; GAEPD (Chuck.Mueller@dnr.ga.gov)

## ENCLOSURE A

### Instructions

1. Identify the person(s) responding to this Paragraph 85 RFI on behalf of Respondent.
2. A separate response must be made to each of the Information Requests set forth herein.
3. Precede each answer with the number of the Information Request to which it corresponds.
4. In answering each Information Request, identify all documents and persons consulted, examined, or referred to in the preparation of each response and provide true and accurate copies of all such documents.
5. If information not known or not available to you as of the date of submission of a response to this Paragraph 85 RFI should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find at any time after the submission of the response that any portion of the submitted information is false or misrepresents the truth; you must notify the EPA thereof as soon as possible.
6. For each document produced in response to this Paragraph 85 RFI, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
7. Where specific information has not been memorialized in a document, but is nonetheless responsive to a particular Information Request, you must respond to the question with a written response.
8. If information responsive to a particular Information Request is not in your possession, custody, or control, then identify the person from whom such information may be obtained.
9. If you have reason to believe that there may be persons able to provide a detailed or complete response to any Information Request question or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
10. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. § 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, or proprietary, or company confidential. Information covered by such a claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth in statutes and regulation set forth above. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.
11. If no responsive information exists in response to a particular Information Request question, state so clearly and concisely.

## ENCLOSURE B

### Definitions:

The following definitions shall apply to the following words as they appear in this Enclosure.

1. The terms AND and OR shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Paragraph 85 RFI any information which might otherwise be construed to be outside their scope.
2. The term DISPOSAL shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwater.
3. The term DOCUMENT and DOCUMENTS shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, inter-office or intra-office communications, photostat or other copy of any documents, microfilm or other film record, photograph, sound recording on any type of device, punch card, disc or disc pack, tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use punch card, disc, disc pack, tape or the type of memory) including: (a) every copy of each document which is not an exact duplicate of a document which is produced; (b) every copy which has any writing, figure, notation, annotation, or the like of it; (c) drafts; (d) attachments to or enclosures with any document; and (e) every document referred to in any other document.
4. The term FACILITY shall mean the TAV Holdings, Inc. Facility operating at 3311, 3320, 3325 and 3405 Empire Boulevard, SW, and 111 Hollow Tree Lane in Atlanta, Georgia.
5. The term GENERATION shall mean any act or process which produces hazardous waste as identified or listed in 40 C.F.R. Part 261 or an act which first causes a hazardous waste to become subject to regulation.
6. The term IDENTIFY means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position, or business.
7. The term IDENTIFY means, with respect to a corporation, partnership, business trust or other associate of a business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
8. The term IDENTIFY means, with respect to a document, to provide its customary business description, date, number, if any (invoice or purchase order number), the

## ENCLOSURE B

identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

9. The term PERSON includes, in the plural as well as the singular, any natural person, firm, unincorporated associate partnership, corporation, trust or other entity.
10. The term RELEASE shall include any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment, or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
11. The term TRANSACTION or ARRANGEMENT shall mean every separate agreement, act, deal, instance, or occurrence.
12. The term YOU or RESPONDENT shall mean the addressee of this Paragraph 85 RFI, the addressee's officers, managers, employees, contractors, trustees, successors, assigns, and agents.

## ENCLOSURE C

### PARAGRAPH 85 RFI

1. Please provide the following information for all materials that have been shipped off site from the Facility since January 18, 2022. Provide specific information for each separate shipment. This question applies to *all materials* shipped off site, including, but not limited to, products, commodities, and wastes:
  - a. Date of shipment;
  - b. Type of material;
  - c. Description of material;
  - d. Specifications;
  - e. Sampling data;
  - f. Shipping documents (manifests, bills of lading, invoices, etc.);
  - g. Transporter;
  - h. Receiving/destination facility (name and address (street, city, state, and zip code));
  - i. Land disposal restriction documentation (if applicable);
  - j. Any intermediate receiving facility; and
  - k. The planned use for the material at the receiving/destination facility.

ENCLOSURE D

STATEMENT OF CERTIFICATION

TAV Holdings, Inc.

I certify that I am authorized to respond to this Paragraph 85 RFI on behalf of TAV Holdings, Inc., and I certify under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 2022.

Signature:\_\_\_\_\_

Printed Name:\_\_\_\_\_

Title:\_\_\_\_\_